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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,026	08/18/2003	Steven Vanhamel	ATMI-624	3218
25559	7590	08/02/2005		EXAMINER
ATMI, INC. 7 COMMERCE DRIVE DANBURY, CT 06810				BRUENJES, CHRISTOPHER P
			ART UNIT	PAPER NUMBER
			1772	

DATE MAILED: 08/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/643,026	VANHAMEL ET AL.
	Examiner Christopher P Bruenjes	Art Unit 1772

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 07 June 2005.
- 2a) This action is FINAL. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-79 is/are pending in the application.
- 4a) Of the above claim(s) 50-79 is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-49 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20050523</u> . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

WITHDRAWN REJECTIONS

1. The 35 U.S.C. 112 rejections of claims 11, 31, 41-42, and 47 of record in the Office Action mailed March 7, 2005, Pages 3-4 Paragraph 3, have been withdrawn due to Applicant's amendments in the Paper filed June 7, 2005.

REPEATED REJECTIONS

2. The 35 U.S.C. 102 rejections of claims 1-2, 5-6, 10, 12-22, 25-26, 30, 32-41, and 43-46 as anticipated by Hirsch are repeated for the reasons set forth in the previous Office Action mailed June 7, 2005, Pages 5-7 Paragraph 4.

Regarding the newly added limitation "in facial contact with the first layer of porous material" added to claims 1 and 22, Hirsch teaches this limitation. The second layer of the claimed invention is taught by Hirsch as the combination of reference numbers 24 and 26 of Figures 1 and 2. The second layer as claimed is not limited to being one layer having the properties of being non-porous to passage of gas and peelable, instead the second layer is claimed to include more than one layer. Specifically, as shown in the dependent claims 14 and 34, the second layer comprises a peelable film and a backing

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layer. In Hirsch the peelable film is reference number 26, Figure 1 and is in facial contact with the first layer of porous material (reference number 22, Figure 1) and the backing layer (reference number 24, Figure 1) is non-porous to passage of gas therethrough. Therefore, the combination of the layers represented by the reference numbers 24 and 26 of Figure 1 and 2, anticipates the second layer claimed in the instant invention, since the limitation "second layer" includes more than one layer, as described by the instant specification and subsequent dependent claims.

3. The 35 U.S.C. 102 rejections of claims 1-2, 5-22, 25-36, 40, and 43-46 as anticipated by Anderson are repeated for the reasons set forth in the previous Office Action mailed March 7, 2005, Pages 7-10 Paragraph 5.

Regarding the newly added limitation "in facial contact with the first layer of porous material" added to claims 1 and 22, Anderson teaches this limitation. The limitation "in facial contact" in its broadest reasonable interpretation in light of the specification requires that the peelable film and the porous material have faces in contact with each other and does not require a narrower interpretation that the entire face of the peelable film and the entire face of the porous material are in

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contact. In this case, the faces of the peelable film (reference number 20, Figure 1) and the porous material (reference number 12, Figure 1) are in direct contact at least at the area of Figure 1 designated as reference number 30. In this location the two films are bonded together by heat seal that can be peeled and therefore the faces are in direct contact at this location.

4. The 35 U.S.C. 103 rejections of claims 3-4 and 23-24 over Hirsch in view of Brown are repeated for the reasons set forth in the previous Office Action mailed March 7, 2005, Pages 11-12 Paragraph 6.

5. The 35 U.S.C. 103 rejections of claims 7-9, 11, 27-29, 31, 42, and 47-49 over Hirsch in view of Anderson are repeated for the reasons set forth in the previous Office Action mailed March 7, 2005, Pages 12-15 Paragraph 7.

6. The 35 U.S.C. 103 rejections of claims 3-4 and 23-24 over Anderson in view of Brown are repeated for the reasons set forth in the previous Office Action mailed March 7, 2005, Page 16 Paragraph 8.

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ANSWERS TO APPLICANT'S ARGUMENTS

7. Applicant's arguments regarding the 35 U.S.C. 112 rejections of record have been considered but are moot since the rejections have been withdrawn.

8. Applicant's arguments regarding the 35 U.S.C. 102 rejections of claims 1-2, 5-6, 10, 12-22, 25-26, 30, 32-41, and 43-46 as anticipated by Hirsch have been fully considered but they are not persuasive.

In response to Applicant's argument that Hirsch teaches an intervening adhesive layer and therefore fails to teach the peelable gas impermeable outer layer is in facial contact with the gas permeable inner layer, the peelable gas impermeable outer layer taken in its broadest reasonable interpretation in light of the instant specification and claims, includes multiple layers, specifically as shown in dependent claims 14 and 34. Therefore, the second layer as claimed is taught by the combination of the peelable adhesive (reference number 26, Figure 1) and impermeable layer (reference number 24, Figure 1) of Hirsch, and that combination is in facial contact with the first layer of porous material.

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9. Applicant's arguments regarding the 35 U.S.C. 102 rejections of claims 1-2, 5-22, 25-36, 40 and 43-46 as anticipated by Anderson have been fully considered but they are not persuasive.

In response to Applicant's argument that Anderson teaches edgewise or marginal contact and not facial contact, the limitation "in facial contact" in its broadest reasonable interpretation in light of the specification requires that the peelable film and the porous material have faces in contact with each other and does not require a narrower interpretation that the entire face of the peelable film and the entire face of the porous material are in contact. In this case, the faces of the peelable film (reference number 20, Figure 1) and the porous material (reference number 12, Figure 1) are in direct contact at least at the area of Figure 1 designated as reference number 30. In this location the two films are bonded together by heat seal that can be peeled and therefore the faces are in direct contact at this location.

10. Applicant's arguments regarding the 35 U.S.C. 103 rejections of claims 3-4 and 23-24 over Hirsch or Anderson in view of Brown have been considered but they are not persuasive.

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Applicant has not directly argued claims 3-4 and 23-24 and only points out that Brown fails to teach the newly added limitation to claims 1 and 22. However, Brown is not relied upon to teach that limitation, and it has been shown above how Hirsch and Anderson each teach that limitation alone.

11. Applicant's arguments regarding the 35 U.S.C. 103 rejections of claims 7-9, 11, 27-29, 31, 42, and 47-49 over Hirsch in view of Anderson have been considered but they are not persuasive.

Applicant has not directly argued claims 7-9, 11, 27-29, 31, 42, and 47-49 and relies on the arguments with regard to the independent claims to overcome the rejection. However, it has been shown above how Hirsch and Anderson each alone teach all of the limitations of the independent claims.

Conclusion

12. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action

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is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher P Bruenjes whose telephone number is 571-272-1489. The examiner can normally be reached on Monday thru Friday from 8:00am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Harold Pyon can be reached on 571-272-1498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Christopher P Bruenjes

Examiner

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CPB

CPB

July 28, 2005


HAROLD PYON
SUPERVISORY PATENT EXAMINER


7/29/05